

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KENNETH CREIGHTON,

Plaintiff,

-against-

**DECLARATION OF
RICHARD GROSS**
12 CIV 7454 (PGG) (DCF)

THE CITY OF NEW YORK, DETECTIVE DEAN
ROBERTS (Shield No. 05861), DETECTIVE
GLENN GODINO (Shield No. 2756), POLICE OFFICERS
JOHN DOES 1-10 (names being fictitious and presently
unknown and intended to be employees of the NYPD who
were involved in Plaintiff's arrest, detention, imprisonment,
and/or prosecution), DISTRICT ATTORNEY ROBERT T.
JOHNSON, ASSISTANT DISTRICT ATTORNEY BRUCE
BIRNS A/K/A BURNS, ASSISTANT DISTRICT ATTORNEY
ED TALTY a/k/a ED TULTY and ASSISTANT DISTRICT
ATTORNEY MICHAEL COOPER,

Defendants.

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STATE OF NEW YORK)
 : SS. :
COUNTY OF NEW YORK)

RICHARD GROSS declares the following under penalty of perjury pursuant to 28 U.S.C.

§ 1746:

1. I am an attorney duly admitted to practice law in the State of New York and a member of the law firm of Rubert & Gross, P.C.. Together with Pazer, Epstein & Jaffe, P.C., we represent plaintiff, Kenneth Creighton.

2. This Declaration supports plaintiff's motion for Partial Summary Judgment pursuant to Fed.R.Civ.P. Rule 56 on the following claims: 1) state-law false arrest claims against defendant, City of New York ("City"), Glenn Godino (Godino), Dean Roberts (Roberts), Bruce Birns (Birns) and Ed Talty (Talty) [First Cause of Action]; 2) state-law malicious

prosecution claims against the City, Godino and Roberts (Second Cause of action; 3) federal claims for malicious prosecution pursuant to 42 U.S.C. §1983 against Roberts and Godino (Fourth Cause of Action and 4) plaintiff's Due Process claims pursuant to 42 U.S.C. §1983 against Godino (Sixth Cause of Action).

3. This Declaration submits to the Court true and accurate copies of exhibits used to support plaintiff's motion. The following exhibits are annexed hereto:

- Exhibit A: Summons and Complaint originally filed in New York State Supreme Court, Bronx County.
- Exhibit B: Plaintiff's Amended Complaint.
- Exhibit C: Plaintiff's Notice of Claim.
- Exhibit D: June 27, 2016 Report of Walter Signorelli.
- Exhibit E: June 27, 2016 Declaration of John Afrides.
- Exhibit F: Certificate of Disposition of the criminal charges against plaintiff Bates stamped P00020.
- Exhibit G: Sworn statement of Fawaz Terab dated February 21, 2013 Bates stamped P00096.
- Exhibit H: Photo array
- Exhibit I: Complaint-Follow-Up Bates Stamped P00046.
- Exhibit J: Spiral notebook maintained by defendant Glenn Godino ("Godino") referable to the subject investigation.
- Exhibit K: Transcripts of defendant Godino's depositions.
- Exhibit L: Defendants' Responses to First Set of Interrogatories.
- Exhibit M: Transcripts of defendant Bruce Birns's deposition.
- Exhibit N: Transcript of defendant Ed Talty's deposition.
- Exhibit O: Transcript of Fawaz Terab's deposition.
- Exhibit P: Transcript of Kijafa Spruell's deposition.
- Exhibit Q: Transcript of Michael Raskin's deposition.
- Exhibit R: Transcript of defendant Theresa Gottlieb's deposition.
- Exhibit S: NY General Municipal Law 50-h hearing.
- Exhibit T: CI's Criminal History records.
- Exhibit U: Transcript of the deposition of a Confidential Informant (to be filed under seal).
- Exhibit V: Criminal sworn complaint signed by defendant Roberts.
- Exhibit W: Crime Scene Unit Report Bates Stamped P00066-68
- Exhibit X: Unusual Occurrence Report Bates stamped P00157.
- Exhibit Y: Omniform System Complaints Bates stamped P00056-P00058.
- Exhibit Z: Photographic Array Bates stamped NYC004747
- Exhibit AA: Photographic Array Bates stamped NYC004590.
- Exhibit BB: Booking Arraignment Disposition Inquiry System Bates stamped NYC004761 - NYC004763 (Spruell Records).

Exhibit CC: DVD provided during discovery depicting surveillance footage of the bodega on December 26, 2007.
Exhibit CC: DD5 Bates stamped P00185.
Exhibit DD: DD5 Bates stamped P00186.
Exhibit EE: Transcript of Paul LaDuca's deposition.
Exhibit FF: CRIMS Appearance History - CREIGHTON, KENNETH Bates stamped NYC005509.
Exhibit GG: DD5 or Complaint-Follow-Up Informational Bates stamped P00024.
Exhibit HH: DD5 or Complaint-Follow-Up Informational Bates stamped P00024.
Exhibit II: Signed statement of Fawaz Terab.
Exhibit JJ: Grand jury minutes Bates stamped. NYC 000399 -NYC 000429
Exhibit KK: Indictment Bates stamped P00098.
Exhibit LL: DD5 Bates stamped Bates stamped P00161.
Exhibit MM: DD5 Bates stamped NYC004458.
Exhibit NN: Dior Creighton's Indictment.
Exhibit OO: Transcript of Dean Roberts' Deposition

Dated: June 27, 2016



RICHARD GROSS